



STEVEN A. METCALF II, ESQ., Managing Attorney
NANETTE IDA METCALF, ESQ., Managing Attorney**
MARTIN TANKLEFF, ESQ., Associate Attorney
CHRISTOPHER DARDEN, ESQ., *Special Counsel**
JOSEPH D. MCBRIDE, ESQ., *of Counsel*
MARC HOWARD, ESQ., *of Counsel*

EXHIBIT C

Metcalf & Metcalf, P.C.

99 Park Avenue, 25th Floor
New York, NY 10016
646.253.0514 (*Phone*)
646.219.2012 (*Fax*)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

Capital 7 Funding,

Plaintiff

Docket No. 17-cv-2374

Request for Certificate of Default

- against -

Wingfield Capital Corporation, Prestige Investment
Associates, Inc., d/b/a Prestige Investments USA,
and First Choice Payment Systems, Inc., d/b/a 1st
Choice Payments

Corporate Defendants

And

Burgis Sethna, a/k/a Seth Burgess, Heath
Wagenheim, Joseph Rabito, Damian Laljie a/k/a
Damian Laltie, and John Does 1 through 15,

Individual Defendants

-----X

TO: DOUGLAS C. PALMER, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Plaintiff in the above-captioned action request that defaults be entered against Defendant Wingfield Capital Corporation pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to timely plead or otherwise defend this action as fully appears from the court file and the attached declaration of Nicholas Bowers, Esq.

Dated: Brooklyn, New York
July 20, 2020

Respectfully Submitted,

/s/ _____

Nicholas Bowers, Esq.

Gary Tsirelman P.C.

Attorneys for Plaintiff

129 Livingston St.

Brooklyn NY 11201

Email: nbowers@gtmdjd.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Capital 7 Funding,

Plaintiff

- against -

Wingfield Capital Corporation, Prestige Investment
Associates, Inc., d/b/a Prestige Investments USA,
and First Choice Payment Systems, Inc., d/b/a 1st
Choice Payments

Corporate Defendants

And

Burgis Sethna, a/k/a Seth Burgess, Heath
Wagenheim, Joseph Rabito, Damian Laljie a/k/a
Damian Laltie, and John Does 1 through 15,

Individual Defendants

Docket No. 17-cv-2374

**Declaration in Support of Request
for Certificate of Default**

-----X
DECLARATION OF NICHOLAS BOWERS, ESQ.

I, Nicholas Bowers, declare under penalty of perjury that:

1. I am an associate attorney with Gary Tsirelman, P.C., counsel to Plaintiff Capital 7 Funding in the above-captioned matter.
2. I submit this declaration pursuant to Rule 55.1 of the Local Civil Rules for the Eastern District of New York and in support of Plaintiff's request for a certificate of default against Defendant Wingfield Capital Corporation ("Wingfield").
3. This action seeks damages from Wingfield for its conduct and direction of Defendants' fraudulent enterprise that defrauded Plaintiff.

4. Jurisdiction of this action is based upon 28 U.S.C § 1331 because Plaintiff brings its claims, in part, under the laws of the United States, specifically 18 U.S.C. § 1961 through 1968 (the Racketeer Influenced and Corrupt Organizations (“RICO”) Act). This Court has supplemental jurisdiction of Plaintiff’s state law claims pursuant to 29 U.S.C. § 1367. This District is an appropriate venue pursuant to 28 U.S.C. § 1391, one or more of the Defendants resides in the Eastern District of New York and because this is the District where a substantial amount of the activities forming the basis of the Complaint occurred.

5. The Complaint was filed on April 20, 2017. ECF No. 1. Plaintiff filed an Amended Complaint on May 4, 2017. ECF No. 4. Plaintiff served Wingfield with the Amended Complaint on June 6, 2017. *See Exhibit A*. Plaintiff subsequently filed a Second Amended Complaint on August 31, 2017. ECF No. 26.

6. Wingfield retained counsel on February 20, 2018. ECF No. 34.

7. Wingfield requested a pre-motion conference from the Court regarding a motion to dismiss the Second Amended Complaint. ECF No. 42. The Court issued an order on March 22, 2019 allowing all Defendants to file motions to dismiss.

8. Wingfield filed a motion to dismiss the Second Amended Complaint on June 21, 2019. The Court denied Wingfield’s motion in its entirety on May 29, 2020. ECF No. 82.

9. Pursuant to Federal Rule of Civil Procedure 12(a)(4)(A), Wingfield’s responsive pleading was due filed or served on June 15, 2020. Wingfield has not filed or served any responsive pleading or appeal after filing the motion to dismiss. Wingfield’s time to respond has expired.

10. This action seeks judgment against Wingfield for compensatory damages, punitive damages, treble damages, costs, and reasonable counsel fees.

Dated: Brooklyn, New York
July 20, 2020

Respectfully Submitted,

Nicholas Bowers, Esq.
Gary Tsirelman P.C.
Attorneys for Plaintiff
129 Livingston St.
Brooklyn NY 11201

AFFIDAVIT OF SERVICE

**UNITED STATES DISTRICT COURT
Eastern District of New York**

Index Number: 17-CV-2374

Date Filed: _____

Plaintiff:

Capital 7 Funding

vs.

Defendant:

Wingfield Capital Corporation, et al.

State of New York, County of Albany)ss.:

Received by Undisputed Legal Inc. to be served on **Wingfield Capital Corporation**.

I, James Boland, being duly sworn, depose and say that on the **6th day of June, 2017 at 2:30 pm, I:**

Served Wingfield Capital Corporation by delivering two true copies of the **Summons in a Civil Action Rider A and Amended Complaint pursuant to section 306 BCL together with statutory service fee in the amount of \$40.00 to Sue Zouky as Business Document Specialist 2 of The New York State Department of State, 99 Washington Avenue, Albany, NY, 12207, the New York State Department of State being the Registered Agent of record of the within named corporation, in compliance with state statutes.**

Description of Person Served: Age: 64, Sex: F, Race/Skin Color: White, Height: 5'4", Weight: 150, Hair: Brown, Glasses: N

I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 20th day of June, 2017 by the affiant who is personally known to me.

NOTARY PUBLIC

PATRICIA A. BLURKE

NOTARY PUBLIC STATE OF NEW YORK

No. 01414022372

Qualified in Albany County

My Commission Expires February 28, 2020 Copyright © 1999-2009 Database Services, Inc. Process Server's Tool Box V6.3x

James Boland
Process Server

Undisputed Legal Inc.

580 Madison Avenue

21st Floor

New York, NY 10022

(212) 208-8000

Current Serial Number: 2017001513

State of New York - Department of State
Receipt for Service

Receipt #: 201706080463

Cash #: 201706080207

Date of Service: 06/06/2017

Fee Paid: \$40 - CHECK

Service Company: 31 SERVINATOR LEGAL SUPPORT SERVICES, INC.

Service was directed to be made pursuant to: SECTION 306 OF THE BUSINESS
CORPORATION LAW

Party Served: WINGFIELD CAPITAL CORPORATION

Plaintiff/Petitioner:

CAPITAL 7 FUNDING

Service of Process Address:
WINGFIELD CAPITAL CORPORATION
22 CORTLANDT ST
FLOOR 11
NEW YORK, NY 10007

Secretary of State
By SUE ZOUKY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

Capital 7 Funding,

Plaintiff

Docket No. 17-cv-2374

- against -

Certificate of Default

Wingfield Capital Corporation, Prestige Investment
Associates, Inc., d/b/a Prestige Investments USA,
and First Choice Payment Systems, Inc., d/b/a 1st
Choice Payments

Corporate Defendants

And

Burgis Sethna, a/k/a Seth Burgess, Heath
Wagenheim, Joseph Rabito, Damian Laljie a/k/a
Damian Laltie, and John Does 1 through 15,

Individual Defendants

-----X

I, Douglas Palmer, Clerk of the Court of the United States District Court for the Eastern District of New York, do hereby certify that Defendant Wingfield Capital Corporation has not filed an answer or otherwise moved with respect to the above-captioned action as fully appears from the court file herein and from the Declaration of Nicholas Bowers, annexed hereto. The default of Defendant Wingfield Capital Corporation is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: Brooklyn, New York
_____, 2020

DOUGLAS C. PALMER
Clerk of Court

By: _____
Deputy Clerk